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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/767,620

01/29/2004

Sunil Kesavan

1356-014

5660

25215 7590 05/08/2007
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EXAMINER

LUK, EMMANUEL S

ART UNIT

PAPER NUMBER

1722

MAIL DATE

DELIVERY MODE

05/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|---|--------------------------------------|---------------------------------------|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 10/767,620 | Applicant(s) KESAVAN ET AL. | |
| | Examiner Emmanuel S. Luk | Art Unit 1722 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 3-9 and 54-62.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

ADVISORY ACTION

1. The applicant's request for reconsideration have been considered but does not place the application in condition for allowance. The Examiner disagrees with the arguments set forth by the applicants. First, for claims 4 and 56, both Kim and Winget teach some sort of removal of the gas from the mold cavity. In the case of Winget, this is a gas-permeable section that absorbs gas and volatiles. The use of porous material that is located within the mold member. It is within the knowledge of one of ordinary skill in the art to recognize that the gas being absorb via a porous member is similar to venting and it would recognize the inherent benefits gained for venting. The reference Kim clearly teaches the use of mold device with a vacuum for venting gases through a porous member and with certain ranges of porosity and pore diameter. The mere use of vents and with the application of a vacuum source to facilitate improved venting properties is known to one of ordinary skill in the art. Similar to an air flow through the ventilation system, the air will move through the system, but with the addition of a fan or vacuum the air will move thereby improving the system.

The argument of the lack of motivation being stated in the references is noted, however, both references teach the removal of gas from the mold cavity through pores of the mold member. Therefore, it would an obvious step for one of ordinary skill in the art to combine the references. In regards to claim 3, the modification of the pore diameter is noted and Examiner disagrees with the applicant's argument. Winget clearly teaches the use of different pore diameters for different gas to be absorbed. This in combination of routine experimentation and also the change in size and shape

that would be obvious for one of ordinary skill, the different pore diameters for the release of the gas is obvious to one of ordinary skill in the art the operation of the apparatus. The references already teach the claimed structure, it is merely the shape and size of the pores that are different which can be determined through routine experimentation for optimization of the structure.

In regards to the heating element, both Winget and Kim suggests the high heat of the material in the cavity. Applicants have focused on the Winget reference, however, Kim teaches the use of molten material that is injected into the cavity. The use of heating elements within the mold members to maintain the molten material from hardening prior to material is set in the cavity is extremely well known in the molding art and Kim suggests this feature which one of ordinary skill in the art would recognize as an inherent feature.

In regards to claims 54 and 56, Kim teaches at least a portion of the molding surface being comprised of the porous metal material, and Winget also teaches the mold members including porous section. Thereby, it would have been obvious for one of ordinary skill to recognize that the mold member can be comprised of that material. In regards to the punch, both references teaches mold members with the material that are brought together with another member to form a cavity, any open and closing position would be inherently similar to a punch as it is also a mold member that is brought into contact with another mold member with a mold cavity in between.

In regards to claim 55, applicants argue the lack of motivation to make the modification to Winget. In light of the recent ruling of KSR vs. Teleflex, and also the

design features of both Winget and Kim. One of ordinary skill in the art would recognize the properties of the porous metal surfaces in both references, both of which are related in the injection molding arts, that it would enhance Winget for the removal of the gas from the mold cavity, be it through absorption or the improved feature of actual venting of the gas from the mold cavity. The proposed change would allow for improved performance of the molding apparatus by positively removing the gas away from the mold cavity and would solve any problems of trapped gas in the cavity.

In regards to claims 5, 9, 57-59, these were not addressed by the applicants who reserved the right to address these rejections at a later time.

After consideration of the applicant's remarks, the Examiner's rejections remain and the Examiner does not believe the claimed apparatus is in condition for allowance.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (571) 272-1134. The examiner can normally be reached on Monday-Fridays from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EL

DUANE SMITH
PRIMARY EXAMINER

[Handwritten signature]
5-7-07